IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 8496 OF 2005

Ashok Mariappa Dede ...Applicant.

V/s

The State of Maharashtra ...Respondent.

Mr. Abhaykumar Apte for the applicant.

Ms Rajeshree M. Gadhavi, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 23rd January, 2006

P.C.:

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. The applicant was arrested in connection with the offence which was registered with the Bhor Police Station, Pune vide C.R. No.98 of 2005 for the offence punishable under section 395 and 412 of the Indian Penal Code. It is alleged that some unknown persons travelling in Tata Sumo vehicle which was owned by the brother of the applicant chased the truck and intercepted it and committed dacoity and silver weighing 30.89 kg and other gift articles weighing 13 kg. were stolen by them. The charge-sheet has been filed. There is no recovery at the instance of the applicant. The other two accused viz. accused Nos.

2 and 3 from whom recovery has been made are allegedly released on bail.

3. The learned Counsel appearing on behalf of the applicant submits that there are no criminal antecedents so far as the present applicant is concerned. The learned APP for the State invited my attention to the statement of the witness who have stated that he had contacted the applicant and has asked him whether he was willing to give Sumo Jeep on hire and he was told that the said Jeep was available and that the applicant would be driving the vehicle. So far as this statement is concerned, it does not indicate that the present applicant actually drove the vehicle. There is no statement of any other witness who states that the applicant was driving the vehicle at the time of the alleged incident. There is no recovery at the instance of the applicant. The application is therefore allowed.

4. The applicant be released on bail in the sum of Rs 10,000/- with one or two sureties in the like amount. The applicant to report to Bhor Police Station, Pune twice in a month.

V.M. KANADE, J.